

# **Plaintiffs' Exhibit 98**

**In the Matter Of:**

*United States vs*

*Google*

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*KENNETH MARCO HARDIE*

*November 14, 2023*

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<p style="text-align: right;">Page 6</p> <p>1 KENNETH MARCO HARDIE</p> <p>2 having been duly sworn, testified as follows:</p> <p>3 EXAMINATION</p> <p>4 BY MS. CLEMONS:</p> <p>5 Q. Okay. Mr. Hardie, I'm Katherine</p> <p>6 Clemons. We met off the record, but I will</p> <p>7 introduce myself, for the record.</p> <p>8 I'm an attorney with the United</p> <p>9 States antitrust division.</p> <p>10 Can you please state and spell your</p> <p>11 full name for the record?</p> <p>12 A. Sure. Kenneth Marco Hardie,</p> <p>13 K-e-n-n-e-t-h, M-a-r-c-o, H-a-r-d-i-e.</p> <p>14 Q. And Mr. Hardie, do you go by Marco?</p> <p>15 A. Yes.</p> <p>16 Q. And are you currently working at</p> <p>17 Google, LLC?</p> <p>18 A. Yes.</p> <p>19 Q. What is your position with Google?</p> <p>20 A. My title is head of industry.</p> <p>21 Q. What does that mean, head of</p> <p>22 industry?</p>	<p style="text-align: right;">Page 7</p> <p>1 A. I lead the sales team associated</p> <p>2 with Google, specifically government and</p> <p>3 advocacy, within the government advocacy</p> <p>4 protocol.</p> <p>5 Q. And is that specific to Google's</p> <p>6 ad's business or all Google products?</p> <p>7 A. It is specific to Google's ad</p> <p>8 business.</p> <p>9 Q. Okay.</p> <p>10 A. So within that search video and</p> <p>11 then the display.</p> <p>12 Q. So is the industry the government</p> <p>13 industry or what is industry referring to in</p> <p>14 your title, if you know?</p> <p>15 A. It is referring to the industry,</p> <p>16 itself, like there are a number of heads of</p> <p>17 industry across Google, and it pertains to the</p> <p>18 specific what we would call vertical, that they</p> <p>19 work in, that's how we would define it or how we</p> <p>20 would use the term, which is the various</p> <p>21 industries that we serve.</p> <p>22 Q. And what is the vertical that you</p>
<p style="text-align: right;">Page 8</p> <p>1 are the head of industry for?</p> <p>2 A. I work within the government and</p> <p>3 advocacy vertical.</p> <p>4 Q. Okay. And you said you lead the</p> <p>5 sales team for Google's products to government,</p> <p>6 and I don't know what advocacy is, but to</p> <p>7 government clients?</p> <p>8 A. Primarily government clients, yes,</p> <p>9 I lead a sales team.</p> <p>10 Q. Okay. Are there other people who</p> <p>11 lead sales teams, selling Google's advertising</p> <p>12 products to government clients?</p> <p>13 A. Yes.</p> <p>14 Q. Who are those other people at</p> <p>15 Google?</p> <p>16 A. Can -- rephrase the question again</p> <p>17 so I -- I'm trying to understand the universe of</p> <p>18 people you're asking for.</p> <p>19 Q. Yeah, you had mentioned that you</p> <p>20 lead a sales team.</p> <p>21 A. Yes.</p> <p>22 Q. Are there other sales teams, led by</p>	<p style="text-align: right;">Page 9</p> <p>1 other people, within that government and</p> <p>2 advocacy vertical?</p> <p>3 A. Yes.</p> <p>4 Q. And who leads those sales teams?</p> <p>5 A. They would be other heads of</p> <p>6 industry.</p> <p>7 Q. Okay. And what would other heads</p> <p>8 of industry be doing, that is different from</p> <p>9 what you and your sales team do?</p> <p>10 A. They essentially do the same thing.</p> <p>11 The difference would be the particular industry</p> <p>12 they serve.</p> <p>13 And so within government and</p> <p>14 advocacy, for example, that covers the United</p> <p>15 States government, that covers major</p> <p>16 non-profits, it covers election advertisers.</p> <p>17 So my other colleagues within</p> <p>18 government advocacy represent different elements</p> <p>19 of those, of the public sector.</p> <p>20 Q. Okay. So yours, your</p> <p>21 responsibilities for your sales team, are the</p> <p>22 United States government, major non-profits, and</p>

<p style="text-align: right;">Page 62</p> <p>1 federal agency advertiser purchases?</p> <p>2 A. Yes. I mean, when we're talking</p> <p>3 about metrics I am generally thinking about</p> <p>4 campaign metrics or media metrics, and so</p> <p>5 there's a distinction. There's definitely a</p> <p>6 distinction between revenue and campaign metrics</p> <p>7 or media metrics.</p> <p>8 Q. And are those two terms</p> <p>9 interchangeable for you, campaign metrics and</p> <p>10 media metrics?</p> <p>11 A. They can be, but not necessarily.</p> <p>12 Q. Okay. What do you mean by campaign</p> <p>13 metrics?</p> <p>14 A. So a campaign metric can be</p> <p>15 associated with a specific campaign. Whereas, I</p> <p>16 say a media metric, I am tending to think a</p> <p>17 little bit more broadly. So there may be one --</p> <p>18 you know, let's say, for example, the -- the</p> <p>19 census may have a number of campaigns running,</p> <p>20 so we may care about -- and each of those</p> <p>21 campaigns may have a different goal, right?</p> <p>22 Q. Okay.</p>	<p style="text-align: right;">Page 63</p> <p>1 A. So one goal could be -- it could be</p> <p>2 related to, you know, reaching a certain type of</p> <p>3 person versus another type of person, so that is</p> <p>4 a campaign metric and they will have very</p> <p>5 specific campaign metrics versus how is this</p> <p>6 performing, versus a media metric is are we</p> <p>7 helping them meet their overarching goal, to</p> <p>8 carry the census example, how many census</p> <p>9 startups are we driving?</p> <p>10 So ultimately there is a difference</p> <p>11 in the type of metric, that there are campaign</p> <p>12 metrics and there could be broader business</p> <p>13 metrics, there's a distinction.</p> <p>14 Q. Okay. And is -- does Google seek</p> <p>15 that either campaign metrics or business metrics</p> <p>16 or media metric information in order to better</p> <p>17 support the -- the federal agency advertiser in</p> <p>18 its campaigns?</p> <p>19 A. Yes, absolutely, so campaign</p> <p>20 metrics and media metrics are -- ultimately we</p> <p>21 spend more time kind of probably focused on</p> <p>22 those than the revenue metric, because revenue</p>
<p style="text-align: right;">Page 64</p> <p>1 is a lagging indicator for us helping them reach</p> <p>2 their goals.</p> <p>3 Q. Okay. Do you have any estimate of</p> <p>4 about how much of your team members' time is</p> <p>5 spent supporting the federal agency advertisers</p> <p>6 as opposed to the other advertiser accounts in</p> <p>7 their portfolio?</p> <p>8 MR. RYBNICEK: Objection to the --</p> <p>9 objection to form.</p> <p>10 A. Broadly, but not within my -- very</p> <p>11 broadly.</p> <p>12 Q. What is your broad estimate?</p> <p>13 A. And currently, I would say</p> <p>14 currently, because, again, over the course of my</p> <p>15 career with Google who is spending money when</p> <p>16 and what time obviously can vary.</p> <p>17 Currently, I would say they</p> <p>18 probably spend two-thirds of their time on US</p> <p>19 government advertisers.</p> <p>20 Q. Okay. Is that your entire team or</p> <p>21 just the two that we talked about, that are</p> <p>22 supporting I believe it was USPS?</p>	<p style="text-align: right;">Page 65</p> <p>1 A. Broadly, my entire team.</p> <p>2 Q. Okay. Do the other team members,</p> <p>3 other than Megan and Jill, also help support</p> <p>4 USPS and its -- and Veteran's Affairs and census</p> <p>5 on your team?</p> <p>6 A. Yes. So an account manager and an</p> <p>7 account executive would work on the specific</p> <p>8 advertiser.</p> <p>9 Q. Okay. And do you think that the --</p> <p>10 that two-thirds estimate is the same for Sean's</p> <p>11 team?</p> <p>12 A. No. They probably spend a little</p> <p>13 bit more time, just because their -- parts of</p> <p>14 their business are a little bit more</p> <p>15 consolidated; that said, within the public</p> <p>16 health space they serve a lot of non-US</p> <p>17 government clients, as well.</p> <p>18 And so I -- I -- I couldn't begin</p> <p>19 to say how much time exactly they spend or</p> <p>20 wouldn't feel comfortable saying exactly how</p> <p>21 much time they spend, but I would surmise that</p> <p>22 they are spending a significant amount of time</p>

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1 as well, covering those areas.

2 MS. CLEMONS: Okay. We've been

3 going about an hour, I don't know if you want to

4 take a break? I'm happy to keep going.

5 MR. RYBNICEK: Do you?

6 THE WITNESS: Yeah.

7 THE VIDEOGRAPHER: Off the record.

8 The time is 3:08.

9 (Recess.)

10 THE VIDEOGRAPHER: On the record.

11 The time is 3:24.

12 BY MS. CLEMONS:

13 Q. All right. We are back from break.

14 Mr. Hardie, did you have any

15 discussions with your counsel while we were on

16 break?

17 A. Yes.

18 Q. And did you discuss the -- the

19 substance of your testimony or any of the

20 testimony that you've given so far today?

21 A. Broadly.

22 Q. Okay. What did you discuss with

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1 customer relationship management?

2 A. Yes.

3 Q. Okay. Do you -- do you, your team

4 or Mr. Harrison's team, track any information

5 about the federal agency advertisers outside of

6 sales connect?

7 A. No.

8 Q. Okay. You don't have any, like,

9 Excel trackers that you're keeping?

10 A. Oh, no, there could be -- there

11 could be an Excel tracker for various things.

12 Q. Okay. Do you -- can you think of

13 any examples of Excel trackers that you keep

14 related to the federal agency advertisers?

15 A. Most of the time our internal

16 trackers are, like, related to our work.

17 There's more of a dashboard I can use as an

18 example, on the census we were keeping track of

19 their, like, search impression data, so search

20 impression -- not search impression data, search

21 impression chair, because they had a goal of

22 north of 90 percent impression chair. So we

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1 your counsel during the break about the

2 testimony that you've given, broadly?

3 A. Doing a good job.

4 MR. RYBNICEK: Objection,

5 objection, ask you -- instruct you not to answer

6 to the extent it would reveal communications

7 with attorneys, your attorneys.

8 BY MS. CLEMONS:

9 Q. First of all, are you going to take

10 the instruction of your counsel?

11 A. Yes.

12 Q. Did your attorneys tell you --

13 get -- provide you any information or talk to

14 you about specific testimony that you gave or

15 testimony that you should give?

16 A. No.

17 Q. Okay. Okay.

18 A couple of things, before we went

19 on break I think at one point you had mentioned

20 that sales connect was, like, a CRM platform?

21 A. Mm-hmm.

22 Q. By CRM are you referring to

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1 were making sure we were, like, tracking and

2 hitting those types of things. So that might be

3 an example of something where -- but it's not

4 tracking revenue, if that's the question.

5 Q. Okay. For the other metrics, the

6 campaign metrics or the business metrics we

7 talked about before, are those being tracked in

8 sales connect or in some other system or

9 document?

10 A. No, it is probably within Connect

11 Sales or Google Ads, I should say, if you're

12 talking about campaign metrics, Google Ads.

13 Q. Okay. So that is, like, a Google

14 Ads?

15 A. It's the platform.

16 Q. Okay.

17 A. It is the platform, so if someone's

18 operating in the platform, wherever they are,

19 ads are being purchased, that is where campaign

20 performance is typically tracked.

21 Q. Okay. And are you running reports

22 out of the Google side of Google Ads?

<p style="text-align: right;">Page 78</p> <p>1 the eight federal agency advertisers?</p> <p>2       <b>A. I believe she worked on the army.</b></p> <p>3 <b>She did some stuff on the census.</b></p> <p>4       Q. Okay. Does your team produce up or</p> <p>5 out any periodic reports or presentations to</p> <p>6 you, whether your supervisors or other -- other</p> <p>7 teams at Google in the ad space?</p> <p>8       <b>A. When you say present up or out</b></p> <p>9 <b>reports, like, what do you mean?</b></p> <p>10       Q. Yeah, so is your team reporting out</p> <p>11 to other parts of -- of Google on the</p> <p>12 performance of your client accounts, for</p> <p>13 example?</p> <p>14       <b>A. When you say: Other parts of</b></p> <p>15 <b>Google, I mean, there's our natural reporting</b></p> <p>16 <b>chains to my director. I might have, obviously,</b></p> <p>17 <b>a conversation with my director on how things</b></p> <p>18 <b>are going and potentially, at periodic times,</b></p> <p>19 <b>like, our VP.</b></p> <p>20               But in terms of out to other parts</p> <p>21 of Google, related to the performance of</p> <p>22 campaigns, broadly, no.</p>	<p style="text-align: right;">Page 79</p> <p>1               Q. Okay. What about the -- the Google</p> <p>2 platform team?</p> <p>3               MR. RYBNICEK: Objection to form.</p> <p>4       <b>A. It would be hard for me to say. I</b></p> <p>5 <b>would presume, broadly, no, in terms of when you</b></p> <p>6 <b>say out, how are you defining out is really kind</b></p> <p>7 <b>of what --</b></p> <p>8       Q. Yeah, is your team creating any</p> <p>9 sort of regular report or presentation to inform</p> <p>10 other teams about how your accounts are doing?</p> <p>11       <b>A. When you say other teams, what do</b></p> <p>12 <b>you mean?</b></p> <p>13       Q. So the Google platform team or the</p> <p>14 billing and financial teams or other teams that</p> <p>15 might interact with federal agency</p> <p>16 advertisers --</p> <p>17       <b>A. So again --</b></p> <p>18       Q. -- or the ad agencies?</p> <p>19       <b>A. -- like, the billing and</b></p> <p>20 <b>advertising -- the billing team would never</b></p> <p>21 <b>interact with a federal agency employee, for</b></p> <p>22 <b>example. So in that sense, no, if that is the</b></p>
<p style="text-align: right;">Page 80</p> <p>1 question, the answer is no.</p> <p>2       Q. Okay.</p> <p>3       <b>A. Because they don't do it.</b></p> <p>4       Q. But your team isn't having a</p> <p>5 regular meeting with the platform team about</p> <p>6 government accounts or anything like that?</p> <p>7       <b>A. That -- I mean, again, technically,</b></p> <p>8 <b>in that sense, as other times -- for an example,</b></p> <p>9 <b>if I have my team meeting, and we're talking</b></p> <p>10 <b>about our accounts, could someone from, like,</b></p> <p>11 <b>the account executive, the programmatic account</b></p> <p>12 <b>executive that covers the accounts be present in</b></p> <p>13 <b>the meeting, of course, yes.</b></p> <p>14               But I would not -- I would not</p> <p>15 characterize it as, like, presenting out to</p> <p>16 other areas of Google. They are -- they sit</p> <p>17 within kind of, like, the normal course of</p> <p>18 business of how our team operates.</p> <p>19       Q. Okay. Do you know who Tiffany</p> <p>20 Miller is?</p> <p>21       <b>A. I do.</b></p> <p>22       Q. Who is Tiffany Miller?</p>	<p style="text-align: right;">Page 81</p> <p>1       <b>A. Tiffany Miller is the former</b></p> <p>2 <b>director for programmatic, within CG&amp;E, which is</b></p> <p>3 <b>consumer government and entertainment, the</b></p> <p>4 <b>sector we sit.</b></p> <p>5       Q. And was that -- is that a part of</p> <p>6 your team or a different head of industries?</p> <p>7       <b>A. So that is even broader, right? If</b></p> <p>8 <b>we kind of go back to I manage a government</b></p> <p>9 <b>team, that sits within the government and</b></p> <p>10 <b>advocacy vertical, the government and advocacy</b></p> <p>11 <b>vertical sits within the CG&amp;E sector, which is</b></p> <p>12 <b>consumer government entertainment.</b></p> <p>13       Q. Okay. Did you do any work on the</p> <p>14 decennial census campaign for the 2020 census?</p> <p>15       <b>A. Yes.</b></p> <p>16       Q. What was your role with respect to</p> <p>17 the census campaign?</p> <p>18       <b>A. My role was to lead the ads effort</b></p> <p>19 <b>for Google.</b></p> <p>20       Q. Okay. And what did that entail?</p> <p>21       <b>A. That entailed leading the team,</b></p> <p>22 <b>that entailed working with the myriad of ad</b></p>

<p style="text-align: right;">Page 82</p> <p>1 agencies responsible for the census. I mean,</p> <p>2 the simplest, my goal was to help us be a good</p> <p>3 partner to the advertising agencies that were</p> <p>4 responsible for executing the census.</p> <p>5 Q. Okay. And were you also trying to</p> <p>6 be a good platform partner or vendor for the</p> <p>7 census?</p> <p>8 A. I mean, ultimately, we want to do a</p> <p>9 good job, and so we want the census to be happy</p> <p>10 with the work that we're doing for them.</p> <p>11 Q. Do you recall there being any</p> <p>12 issues, at any point, with the execution of the</p> <p>13 census campaign in 2020?</p> <p>14 MR. RYBNICEK: Objection to form.</p> <p>15 A. The 2020 campaign is -- was, quite</p> <p>16 possibly, the largest media campaign in the</p> <p>17 history of government. The census -- the 2020</p> <p>18 census is, quite literally, outside of war, the</p> <p>19 2020 census is the largest mobilization of the</p> <p>20 US government. So I can imagine there were</p> <p>21 complications and issues along the way.</p> <p>22 Q. Realizing it's been several</p>	<p style="text-align: right;">Page 83</p> <p>1 years --</p> <p>2 A. Yeah.</p> <p>3 Q. -- do you recall a time when the</p> <p>4 wrong URL was white listed by Google's team and</p> <p>5 it caused census's ads to go dark for a period</p> <p>6 of a couple of days?</p> <p>7 A. I do not recall that.</p> <p>8 Q. Okay. Do you know what a make good</p> <p>9 is?</p> <p>10 A. Yes.</p> <p>11 Q. What is a make good?</p> <p>12 A. A make good is essentially a</p> <p>13 credit, essentially an ad credit that can be</p> <p>14 delivered.</p> <p>15 Q. Okay. And what is the reason that</p> <p>16 an ad credit would be delivered as a make good?</p> <p>17 A. It's very broad.</p> <p>18 Q. What are some examples of reasons</p> <p>19 that a make good could be delivered?</p> <p>20 A. It can range from something not</p> <p>21 running the way that it was supposed to, some</p> <p>22 sort of bug that caused an issue, but it can</p>
<p style="text-align: right;">Page 84</p> <p>1 range all the way to somebody at an ad agency</p> <p>2 clicked the wrong thing and an ad didn't</p> <p>3 surface. There's a wide range of reasons why</p> <p>4 someone could -- almost -- why that make good</p> <p>5 should be issued.</p> <p>6 Q. Okay. And is there an approval</p> <p>7 process for make goods?</p> <p>8 A. Once it -- there are certain levels</p> <p>9 associated with how large the make good is, that</p> <p>10 would trigger certain levels of approval.</p> <p>11 Q. Okay. And who would handle a</p> <p>12 request for a make good from an advertiser, from</p> <p>13 a federal agency advertiser at Google?</p> <p>14 A. So when you said -- again, when you</p> <p>15 say a federal advertising agency advertiser</p> <p>16 requesting a make good, very like -- very likely</p> <p>17 would not be coming from the federal agency</p> <p>18 advertiser, it would be coming from the</p> <p>19 advertising agency, themselves, because the --</p> <p>20 any make good would be going to the advertising</p> <p>21 agency, because it is their account,</p> <p>22 essentially, that is -- had some issue, and they</p>	<p style="text-align: right;">Page 85</p> <p>1 would need something to be made good.</p> <p>2 Q. Right. But are they -- strike</p> <p>3 that.</p> <p>4 The ads that are being purchased --</p> <p>5 A. Mm-hmm.</p> <p>6 Q. -- are ads for the advertiser;</p> <p>7 right?</p> <p>8 A. In theory, yes.</p> <p>9 Q. Okay. So we're talking about</p> <p>10 situations where an advertiser is -- is</p> <p>11 purchasing ads through Google platforms through</p> <p>12 their ad agency?</p> <p>13 MR. RYBNICEK: Objection to form.</p> <p>14 A. Yeah, I mean, like, the advertising</p> <p>15 agency is purchasing the ads. And, in</p> <p>16 particular, we were talking about the census,</p> <p>17 especially, but there is an advertising agency</p> <p>18 that owns that seat, for lack of a better word,</p> <p>19 that owns that -- that ads -- that GMP placed in</p> <p>20 order to buy ads. So that make good would quite</p> <p>21 literally go to them, in theory, that could go</p> <p>22 to them, and we don't know where it goes after</p>

<p style="text-align: right;">Page 106</p> <p>1           A. We didn't get into -- we weren't</p> <p>2 going -- we weren't going -- if your question is</p> <p>3 we were not going through this level of detail</p> <p>4 in terms of individual GMP contracts.</p> <p>5           MR. RYBNICEK: Counsel, we're going</p> <p>6 to object, because I don't think the topic calls</p> <p>7 for a legal understanding of the terms effect.</p> <p>8 He was prepared on -- in understanding what</p> <p>9 contracts exist and what terms are contained in</p> <p>10 them.</p> <p>11           Asking questions about what the</p> <p>12 legal effect of terms are goes beyond the scope</p> <p>13 of the topics in the 30(b)(6) notice.</p> <p>14           MS. CLEMONS: Can we go off the</p> <p>15 record?</p> <p>16           THE VIDEOGRAPHER: Off the record.</p> <p>17 The time is 4:06.</p> <p>18 (Recess.)</p> <p>19           THE VIDEOGRAPHER: On the record.</p> <p>20 The time is 4:08.</p> <p>21 BY MS. CLEMONS:</p> <p>22           Q. Mr. Hardie, did you discuss any</p>	<p style="text-align: right;">Page 107</p> <p>1 other contract terms, besides the -- did you</p> <p>2 prepare to testify as to any other contract</p> <p>3 terms, besides the -- which platforms the ad</p> <p>4 agencies have agreements with respect to?</p> <p>5           A. I would not characterize my prep as</p> <p>6 focused on specific contract terms.</p> <p>7           Q. Okay. So do you know what the</p> <p>8 platform fees are for DV360 for the federal</p> <p>9 agency advertisers?</p> <p>10           A. So in this case, there wouldn't be</p> <p>11 plays and fees, agency platform fees specific</p> <p>12 for the advertiser, because the advertising</p> <p>13 agency is who has the seat or who has the</p> <p>14 contract with Google.</p> <p>15           And many times, like, again, to</p> <p>16 example we use with Google is a massive</p> <p>17 conglomerate of agencies, which does billions of</p> <p>18 dollars with revenue through GMP across many,</p> <p>19 many clients over the course of, you know, a</p> <p>20 year, and so I -- I would -- I cannot speak to</p> <p>21 what volume discounts each holding company would</p> <p>22 have, so I -- I don't -- I don't know.</p>
<p style="text-align: right;">Page 108</p> <p>1           Q. Okay. Do you know whether there</p> <p>2 are any contracts with advertising agencies that</p> <p>3 are specific to particular advertisers,</p> <p>4 particularly federal agency advertisers?</p> <p>5           A. Can you repeat the question or</p> <p>6 rephrase the question?</p> <p>7           Q. Does Google have any contracts with</p> <p>8 advertising agencies that are specific to a</p> <p>9 particular advertiser?</p> <p>10           A. Current contracts, I'm not -- I</p> <p>11 can't say for sure.</p> <p>12           Q. Do you know if Google had any</p> <p>13 contracts with advertising agencies related to</p> <p>14 the 2020 decennial census campaign?</p> <p>15           A. Yes.</p> <p>16           Q. Were they specific to census?</p> <p>17           A. There were specific parts of GMP</p> <p>18 contracts that were related to census.</p> <p>19           Q. What specific parts of GMP</p> <p>20 contracts were related to census?</p> <p>21           A. So the census, itself, was, again,</p> <p>22 as we've talked about earlier, an incredibly</p>	<p style="text-align: right;">Page 109</p> <p>1 large and complicated campaign. There were at</p> <p>2 least eight media agencies buying media, and</p> <p>3 they were all doing it through -- the plan was</p> <p>4 for them to do it through the Wave Maker Seat,</p> <p>5 which is one the agencies there. And the only</p> <p>6 way that we could -- or the campaign, itself,</p> <p>7 could effectively be managed was if it was all</p> <p>8 bought through the Wave Maker Seat.</p> <p>9           That is not normal practice,</p> <p>10 because normally multiple advertising agencies</p> <p>11 aren't working on the same campaign in that way.</p> <p>12 And so there were certain things that we had to</p> <p>13 do or that Google had to do in order to allow</p> <p>14 the census agencies, the advertising agencies,</p> <p>15 to be able to operate within -- within that</p> <p>16 instance to execute the campaign.</p> <p>17           Q. Okay. So in that case, in the case</p> <p>18 of the census 2020 campaign --</p> <p>19           A. Mm-hmm.</p> <p>20           Q. -- Google executed specific</p> <p>21 contracts with Wave Maker and other advertising</p> <p>22 agencies that only governed purchases related to</p>

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1 the 2020 census campaign; is that right?

2 **A. Yes, because there was no other**

3 **way -- no other feasible way for the campaign to**

4 **run. It was such a unique and bespoke example,**

5 **that the normal processes would not have been**

6 **able to -- would not have been feasible in order**

7 **to make the campaign actually run.**

8 Q. Okay. Are you aware of any other

9 federal agency advertisers that have had

10 specific mention in advertising agency contracts

11 with Google?

12 **A. Say that again.**

13 Q. Are you aware of any federal agency

14 advertisers -- strike that.

15 Are you aware of any contracts that

16 Google has with ad agencies, other than the one

17 for the census, that are specific to a

18 particular advertiser?

19 **A. I'm not aware.**

20 MS. CLEMONS: Okay. Do -- all

21 right. I think we're going to take a short

22 break, and then we'll come back on the record

Page 112

1 **A. Display and video incentive**

2 **program.**

3 Q. And, briefly, what is a -- what is

4 the display and video incentive program?

5 **A. It is essentially a volume discount**

6 **for a certain level of display and video spend.**

7 Q. Okay. And is that volume discount

8 for an ad agency broadly or for a specific

9 advertiser?

10 **A. It actually could be both or**

11 **either, I should say.**

12 Q. Are you aware of any DVIPs that are

13 specific to federal agency advertisers?

14 MR. RYBNICEK: Objection to form.

15 **A. There have been DVIPs on behalf of**

16 **federal agencies before.**

17 Q. Do you recall any specific ones in

18 the past five years?

19 **A. Veteran's Affairs.**

20 Q. Okay. So there was a specific

21 display and video incentive plan for Veteran's

22 Affairs?

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1 and finish up.

2 THE VIDEOGRAPHER: Off the record.

3 The time is 4:13.

4 (Recess.)

5 THE VIDEOGRAPHER: On the record.

6 The time is 4:25.

7 BY MS. CLEMONS:

8 Q. Okay. Mr. Hardie, I just have a

9 couple more quick questions for you.

10 **A. Okay.**

11 Q. Maybe more than a couple, but do

12 you know who Erin Corkins is?

13 **A. That name sounds familiar.**

14 Q. Okay. Do you know if she works

15 with Anthony Altimari or in that group?

16 **A. I don't believe she actually works**

17 **with Anthony Altimari --**

18 Q. Okay.

19 **A. -- if I remember correctly.**

20 Q. Okay. Do you know what a DVIP is?

21 **A. Yes.**

22 Q. What is that?

Page 113

1 **A. Yes.**

2 Q. Okay. Was that signed by Veteran's

3 Affairs or by their ad agency?

4 **A. It was signed by Reingold.**

5 Q. Okay. DV360 -- I'm sorry to jump

6 around here -- is DV360, does that include

7 YouTube Select?

8 **A. YouTube Select is the most premium**

9 **inventory on YouTube. YouTube can be bought**

10 **through DV360, so kind of translatable property**

11 **there, you can buy YouTube Select DV.**

12 Q. Okay. So it can include YouTube

13 Select?

14 **A. Yes, it can.**

15 Q. Or folks can buy YouTube Select

16 through other --

17 **A. You can buy YouTube Select directly**

18 **through Google Ads.**

19 Q. Okay. Are you familiar with GMP

20 order forms?

21 **A. Specific order forms?**

22 Q. Or just the concept of Google

Page 114

1 Marketing Platform order forms?

2 A. Broadly.

3 Q. Do you know if those order forms

4 are specific to a particular advertiser with an

5 ad agency or just the ad agency, broadly?

6 A. I know that they could be specific

7 to an advertiser, an advertiser specifically.

8 But in terms of the various machinations and

9 platforms that they could take, I couldn't say

10 for sure.

11 Q. Okay. Are you familiar with

12 insertion orders?

13 A. Yes.

14 Q. Do you know if those are specific

15 to particular advertisers?

16 A. Those are usually an IO level that

17 usually specific to a campaign. So then if it's

18 specific to a campaign, therefore, it would

19 naturally be specific to a particular

20 advertiser.

21 Q. What is an insertion order?

22 A. It's basically like an order form,

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1 A. So in colloquial terms, it is kind

2 of like the agreement we are going to work with

3 this advertising agency on this ad over the

4 course of the next year, and here's

5 strategically what we are going to agree what

6 are the things we're trying to do and how are we

7 going to work.

8 Q. Okay. Who maintains the joint

9 business plans for the federal agency

10 advertisers to have them?

11 A. When you mean maintain what do you

12 mean?

13 Q. What group at Google is responsible

14 for creating and overseeing the joint business

15 plans?

16 A. It would be the sales team.

17 Q. So your team?

18 A. Yes.

19 Q. With respect to yours, and Sean

20 Harrison's team with respect to the other four?

21 A. Correct.

22 Q. Okay. Where are those stored at

Page 115

1 it's, like, an order for ads to be placed.

2 Q. Okay. Do you know what a joint

3 business plan is?

4 A. Yes.

5 Q. Do you sometimes abbreviate that

6 JBP?

7 A. Yes.

8 Q. What is a joint business plan?

9 A. It is a non-binding broad agreement

10 on how we might work with an advertising agency

11 on behalf of the ultimate advertiser over the

12 course of a given period.

13 Q. Are there joint business plans in

14 place for the federal agency advertisers?

15 A. Not all federal agency advertisers

16 would have a joint business plan, but most

17 larger government federal agencies would have a

18 joint business plan associated with them, to be

19 clear, it would not be with the federal agency,

20 themselves, it's probably, again, it's a matter

21 of, like, how we work.

22 Q. Right.

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1 Google?

2 A. There isn't necessarily a specific

3 place, per se. Again, they are -- they are,

4 broadly, informal documents. And so they just

5 live in Google drive or, you know, we'll have --

6 maybe have a dashboard, as a team, but where --

7 not even a dashboard but, like, a drive folder.

8 Q. Okay. Do you have an understanding

9 of whether your team's Google drive folders were

10 produced in this litigation?

11 A. No.

12 Q. Okay. With respect to your

13 personal e-mail practices --

14 A. Mm-hmm.

15 Q. -- do you typically communicate

16 internally and externally via e-mail?

17 A. Typically? So internally and

18 externally are two different things.

19 Internally, primarily, I -- I -- I wouldn't say

20 primarily, I guess primarily, technically. I

21 mean, how we -- how we defining primarily?

22 Q. How many -- how many e-mails would

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1 MR. RYBNICEK: Thank you.

2 **THE WITNESS: Thank you.**

3 THE VIDEOGRAPHER: This concludes

4 today's deposition.

5 We are off the record at 4:42.

6 (Signature having not been waived,

7 the deposition of KENNETH MARCO HARDIE was

8 concluded at 4:42 p.m.)

9 ACKNOWLEDGMENT OF DEPONENT

10 I, KENNETH MARCO HARDIE, do hereby

11 acknowledge that I have read and examined the

12 foregoing testimony, and the same is a true,

13 correct and complete transcription of the

14 testimony given by me and any corrections appear

15 on the attached Errata sheet signed by me.

16

17 \_\_\_\_\_

18 (DATE) (SIGNATURE)

19

20

21

22

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1 CERTIFICATE OF SHORTHAND REPORTER

2 I, Cassandra E. Ellis, Registered

3 Professional Reporter, the officer before whom

4 the foregoing proceedings were taken, do hereby

5 certify that the foregoing transcript is a true

6 and correct record of the proceedings; that said

7 proceedings were taken by me stenographically

8 and thereafter reduced to typewriting under my

9 supervision; and that I am neither counsel for,

10 related to, nor employed by any of the parties

11 to this case and have no interest, financial or

12 otherwise, in its outcome.

13 IN WITNESS WHEREOF, I have hereunto

14 set my hand this 15th day of November 2023.

15

16

17 *Cassandra E. Ellis*

18 \_\_\_\_\_

19 CASSANDRA E. ELLIS, CSR-CA #14448, CCR-WA #3484,

20 CSR-HI #475, RPR, RMR, RDR,

21 CRR, REALTIME SYSTEMS

22 ADMINISTRATOR #823848

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1 E R R A T A S H E E T

2 IN RE: UNITED STATES OF AMERICA, v. GOOGLE,

3 LLC

4 RETURN BY: \_\_\_\_\_

5 PAGE	LINE	CORRECTION AND REASON
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22	(DATE)	(SIGNATURE)

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1 E R R A T A S H E E T C O N T I N U E D

2 IN RE: UNITED STATES OF AMERICA, v. GOOGLE,

3 LLC

4 RETURN BY: \_\_\_\_\_

5 PAGE	LINE	CORRECTION AND REASON
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22	(DATE)	(SIGNATURE)

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**ERRATA SHEET FOR THE TRANSCRIPT OF M. HARDIE**

Case Name: *United States et al. v. Google LLC*, No. 1:23-cv-00108-LMB-JFA (E.D. Va.)

Dep. Date: November 14, 2023

Deponent: K. Marco Hardie

Page	Line	Correction	Reason for Correction
16	7	The phrase “other similar” should read “other civil”	Transcription error
18	7	The phrase “Have you spoken to anyone” should read “Have you met or spoken with anyone”	Transcription error
21	16-17	The phrase “military base” should read “military business”	Transcription error
33	18	The phrase “the US government client” should read “ a US government client”	Transcription error
40	14	The phrase “centennial” should read “decennial”	Transcription error
41	21	The phrase “Michelle Henke” should read “Michelle Hinkes”	Transcription error
48	10	The phrase “advertiser products” should read “advertising products”	Transcription error
54-55	22-1	The phrase “with federal eight” should read “with federal agencies”	Transcription error
55	16-17	The phrase “Google-to-marketing platform team” should read “Google Marketing Platform team”	Transcription error
68	20-21	The phrase “search impression chair” should read “search impression share”	Transcription error
68	22	The phrase “90 percent impression chair” should read “90 percent impression share”	Transcription error
71	7	The phrase “if the campaign is running” needs to be inserted after “that is broadly meaning”	Transcription error
71	7-8	The phrase “if there’s ads being run” should read “and there’s ads being run”	Transcription error
71	8	The phrase “and data being generated” should read “and data being generated as a result”	Transcription error
71	11	The phrase “here’s how my campaign is running” should read “here’s how a campaign is running”	Transcription error

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81	12	The phrase “consumer government entertainment” should read “consumer government and entertainment”	Transcription error
84	3	The phrase “surface” should read “serve”	Transcription error
88	10	The phrase “amount of money and other vendors” should read “amount of money with other vendors”	Transcription error
107	10-11	The phrase “there wouldn’t be plays and fees” should read “there wouldn’t be platform fees”	Transcription error
116	3	The phrase “on this ad” should read “on behalf of this advertiser”	Transcription error

I have inspected and read my deposition and have listed all changes and corrections above, along with my reasons therefore.

Date: January 3, 2024

Signature: /s/ K. Marco Hardie